



Policy: 1161
Procedure: 1161.04
Chapter: Inspections and Investigations
Rule: Reasonable Search and Seizure

Effective: 7/21/08
Replaces: 1160.10
Dated: 07/21/06

Purpose:

The Arizona Department of Juvenile Corrections (ADJC) recognizes that all citizens and their property are protected against unreasonable search and seizure. This protection applies equally to searches for the fruits of a crime, the instrumentalities of a crime, contraband, or items of evidentiary value only.

Rules:

1. An object in "plain view" of an investigator who has the right to be at a location to have that view can provide probable cause for a seizure:
 - a. It is not a search to observe that which is visible and in the open in either daylight or artificial light;
 - b. It is not a search when lawful entry has been made into a residence and a contraband article is exposed to view;
 - c. It is not a search for an investigator to peer through the window of a detained vehicle provided his/her head remains outside the vehicle.
2. The legal courses of action available to a criminal investigator for conducting a reasonable and legal search are listed below:
 - a. Search Warrant: The **CRIMINAL INVESTIGATOR** shall ensure that a search warrant is:
 - i. Issued only on probable cause;
 - ii. Accompanied by an affidavit naming and describing particularly the property to be seized and the persons and/or premises to be searched;
 - iii. Signed by a magistrate prior to serving the search warrant and returned to the magistrate upon completion of serving the search warrant.
 - b. Consent Search:
 - i. If the person against whom the search is directed consents to the search of his/her person or property, a **CRIMINAL INVESTIGATOR** may search and seize any fruits of a crime, instrumentalities of a crime, or contraband articles;
 - ii. The **CRIMINAL INVESTIGATOR** shall ensure that any consent to search is voluntary without fear, threats, or promises.
 - c. Incidental to Arrest: Warrantless searches incidental to a lawful arrest are valid. **CRIMINAL INVESTIGATORS** may conduct the warrantless searches for the following reasons but shall limit the searches to those areas that remain within reach of the arrestee:
 - i. To seize weapons or other articles that might be used to attack the investigator;
 - ii. To seize the means the suspect might use to effect his/her escape;
 - iii. To prevent the destruction of the fruits or instrumentalities of the crime, or evidentiary items of the crime for which the arrest was made.
 - d. Exigent Circumstances: The **CRIMINAL INVESTIGATORS** may proceed with the search of the premises at the time of arrest without a search warrant for the following reasons:
 - i. Whenever there is a need to conduct a search of a place, and it is necessary to make an arrest before a search warrant can be obtained;
 - ii. Whenever other persons are present that cannot be lawfully arrested or whenever another officer cannot be summoned to guard the premises.
 - e. Stop and Frisk: Suspicious activity alone will not allow a search for narcotics, instrumentalities, etc. It is fear of dangerous weapons only that creates the reasonableness of this type of limited search without a warrant.

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- i. **CRIMINAL INVESTIGATORS** may conduct this limited search only when they observe suspicious conduct indicating criminal activity, and they fear that the individual observed may be armed and dangerous to them or to others;
- ii. **CRIMINAL INVESTIGATORS** may conduct a limited search of the outer clothing of the suspected person for the purpose of discovering weapons that might be used to assault them.
- f. Warrantless Vehicle Searches.
 - i. **CRIMINAL INVESTIGATORS** may completely search automobiles and other conveyances without a search warrant only:
 - (1) If there is probable cause to believe that the vehicle contains seizable articles; or
 - (2) If the vehicle has no connection with the offense, the search can be only within that area immediately accessible to the arrestee.
 - ii. **CRIMINAL INVESTIGATORS** may take an inventory solely to protect the arrested driver's possessions.
 - (1) This inventory is completely non-exploratory and is not a search.
 - (2) This procedure for safekeeping purposes can best be justified if the investigator has very little or no reason to believe that evidence is in the vehicle.
- g. Searches within a Juvenile Corrections Secure Care Facility: Everyone entering the grounds of an ADJC secure facility shall be subject to searches of his/her person, property, or vehicle. **ADJC EMPLOYEES** shall:
 - i. Conduct these searches in a manner that is professional and dignified and shall not involve any punishment, harassment, or embarrassment to the subject of the search.
 - ii. Conduct search of employees and visitors in accordance with Procedure 4052.03 Search of Visitors and Employees at Secure Facilities
 - iii. Conduct searches of juveniles in accordance with ADJC Procedure 4052.01 Search of Juveniles and Belongings.

Signature Date

7-7-08

Approved by Process Owner

John Dempsey,
Inspections and Investigations Chief Administrator

Effective Date

7/21/08

Approved by

Michael D. Branham, Director